

BY
EAX

1 NEWPORT TRIAL GROUP
2 A Professional Corporation
3 Scott J. Ferrell, Bar No. 202091
4 Roger E. Borg, Bar No. 117765
5 610 Newport Center Drive, Suite 700
6 Newport Beach, CA 92660
7 Tel: (949) 706-6464
8 Fax: (949) 706-6469
9 sferrell@trialnewport.com
10 rborg@trialnewport.com

11 Attorneys for Plaintiff

12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 UNITED STATES OF AMERICA, Ex.
16 Rel., ZACHARY HALLSTROM,

17 Plaintiff,

18 vs.

19 OREXIS, LLC; a limited liability
20 company; LONGEVITY LLC, a limited
liability company; URBAN NUTRITION,
21 LLC, a limited liability company;
ATLANTIC COAST MEDIA GROUP,
22 LLC, a limited liability company;
ANDREW SURWILO, an individual; and
23 DOES 1-10, Inclusive,

24 Defendants.

25
26
27
28
BY
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SANTA ANA

2010 DEC 16 PM 3:56

FILED

SACV10-1925 JST (MLGx)
Case No.

**COMPLAINT FOR FALSE PATENT
MARKING**

JURY TRIAL DEMANDED

I. INTRODUCTION.

1. This lawsuit is brought to stop five sophisticated Defendants from claiming, falsely, that two male enhancement products contain patented elements when they do not. Specifically, Defendants own and operate a website known as MensBlogTalk.com, which they use, through the medium of false reviews and engine optimization, to direct potential customers to a range of products they promote. Included among those products are Orexis®, a male enhancement product which purportedly contains “a patented manufacturing technique that extracts only the most pure and potent components of its high-quality organic ingredients,” and Longevity, a product which purportedly uses a “real HGHR patented Pituitary Gland extract” and contains “a patented substance, 2-AEP®,” which enhances testosterone levels and libido performance.

2. Defendants' claims are false. Neither Orexis® nor Longevity contains any patented formulas or substances, and neither ever has. What is more, the misleading nature of Defendants' advertising – paired with Defendants' marketing sophistication and their dissemination of this advertising through the MensBlogTalk.com website they control – shows that Defendants' false marking was intentional.

II. JURISDICTION, VENUE, AND STANDING.

3. This Court has subject matter jurisdiction pursuant to 35 U.S.C. §292(b) and 28 U.S.C. § 1338(a).

4. Defendants are subject to personal jurisdiction in this District because they conduct business in this district and the exercise of jurisdiction over them would not offend traditional notions of fair play and substantial justice.

5. Venue is proper in this District under 28 U.S.C. §§1391(c) and 1395(a), because Defendants' products that are the subject of this Complaint are advertised for sale, offered for sale, and sold within this judicial district.

6. Plaintiff possess the requisite standing required by Article III of the United States Constitution pursuant to 35 U.S.C. §292(b), which confers upon any person the right to sue for civil monetary penalties, restitution, and injunctive relief for false patent marking.

III. THE PARTIES.

7. Plaintiff Zachary Hallstrom (“Plaintiff”) is a California citizen who is a resident of this District and believes in the importance of a fair and competitive market for the manufacture, marketing, sale, and distribution of consumer products.

8. Plaintiff is informed and believes, and upon such information and belief alleges, that Defendant Orexis, LLC, is a limited liability company with its principal place of business in Hoboken, New Jersey. Plaintiff is informed and believes, and upon such information and belief alleges, that Orexis, LLC, manufactures, advertises, distributes, and sells male enhancement products, including Orexis®, through its affiliated website, MensBlogTalk.com.

9. Plaintiff is informed and believes, and upon such information and belief alleges, that Defendant Longevity, LLC, is a limited liability company with its principal place of business in Hoboken, New Jersey. Plaintiff is informed and believes, and upon such information and belief alleges, that Longevity, LLC, manufactures, advertises, distributes, and sells male enhancement products, including Longevity, through its affiliated website, MensBlogTalk.com.

10. Plaintiff is informed and believes, and upon such information and belief alleges, that Defendant Urban Nutrition, LLC, is a limited liability company with its principal place of business in Hoboken, New Jersey. Plaintiff is informed and believes, and upon such information and belief alleges, that Urban Nutrition, LLC, manufactures, advertises, distributes, and sells male enhancement products, including Orexis® and Longevity, through its affiliated website, MensBlogTalk.com.

11. Plaintiff is informed and believes, and upon such information and belief alleges, that Defendant Atlantic Media Group, LLC, is a limited liability company with its principal place of business in Hoboken, New Jersey. Plaintiff is informed and believes, and upon such information and belief alleges, that Atlantic Media Group, LLC, advertises, distributes, and sells male enhancement products, including Orexis® and Longevity, through its affiliated website, MensBlogTalk.com.

12. Plaintiff is informed and believes that Defendant Andrew Surwilo is an individual who owns, operates, manages and controls Defendants Orexis, LLC, Longevity, LLC, Urban Nutrition, LLC, and Atlantic Media Group, LLC, and is responsible for all activities of the other Defendants, including, without limitation, their marketing of Orexis® and Longevity, through their affiliated website, MensBlogTalk.com.

13. Plaintiff does not know the true names or capacities of the persons or entities sued herein as DOES 1 to 10, inclusive, and therefore sues such Defendants by such fictitious names. Plaintiff will amend this complaint to set forth the true names and capacities of these Defendants when they have been ascertained.

IV. BACKGROUND FACTS.

A. The Purpose of this Action.

14. The purpose of this lawsuit is to act in the public interest to enforce the policy underlying the false marking statute, 35 U.S.C. §292.

B. The Policy of the Patent Marking Statute.

15. The patent marking statute (35 U.S.C. §287(a)) and the false patent marking statute (35 U.S.C. §292) exist to ensure that the public has accurate information on the existence of patent rights.

16. The purposes of the patent marking statute were explained by the Federal Circuit in *Nike, Inc. v. Wal-Mart Stores, Inc.*, 138 F.3d 1437, 1443 (Fed. Cir. 1998), as: (1) helping to avoid innocent infringement, (2) encouraging patentees to give notice to

1 the public that the article is patented, and (3) aiding the public to identify whether an
 2 article is patented.

3 17. Over half a century ago, the Supreme Court stated in *Precision Instrument*
 4 *Mfg. Co. v. Automotive Maintenance Machinery*, 324 U.S. 806, 816 (1945), that patents
 5 by their very nature are affected with a public interest:

6 *The possession and assertion of patent rights are 'issues of great moment to the*
 7 *public.' A patent by its very nature is affected with a public interest. As*
 8 *recognized by the Constitution, it is a special privilege designed to serve the*
 9 *public purpose of promoting the 'Progress of Science and useful Arts.' At the*
 10 *same time, a patent is an exception to the general rule against monopolies and to*
 11 *the right to access to a free and open market.*

12 18. The Patent Act of 1952 provides a *qui tam* cause of action on behalf of the
 13 public to fine the offender in an amount of up to \$500 for each offense, with half going
 14 to the use of the United States, and the other half going to the person bringing the
 15 action.

16 19. False marking of unpatented articles as “patented” is injurious to the public
 17 interest, as explained by the United States Court of Appeals, in at least the following
 18 ways:

- 19 • Acts of false marking deter innovation and stifle competition in the
 20 marketplace.
- 21 • False marks deter scientific research when an inventor sees a mark and
 22 decides to forgo continued research to avoid possible infringement.
- 23 • False marking can cause unnecessary investment in design around or costs
 24 incurred to analyze the validity or enforceability of a patent whose number
 25 has been marked upon a product with which a competitor would like to
 26 compete.

1 • Additionally, consumers who see a product as “patented” are likely to infer
2 the product possesses design or utilitarian features that are unique to such
3 article, and not available in substitute articles from other producers, thus
4 inducing consumer demand for the marked article and causing consumers to
5 pay an artificial premium for the product.

6 **C. Defendants’ False Marking in Violation of the Patent Act.**

7 **1. Orexis®**

8 20. Defendants Orexis, LLC, Urban Nutrition, LLC, Atlantic Media Group,
9 LLC, and Surwilo manufacture, advertise, license, and sell a male enhancement product
10 called “Orexis®,” through through their affiliated website, MensBlogTalk.com.
11 Among other things, they have made the following claims for the product:

12 *“Orexis® is probably the most raved about male sexual enhancement pill we
13 have seen. Its customers simply love the product. This product also has more
14 testimonials than any other product in the industry.”*

15 21. Defendants Orexis, LLC, Urban Nutrition, LLC, Atlantic Media Group,
16 LLC, and Surwilo also have used the following language to describe the purported
17 results they promise users will achieve:

18 *“The results [are] that the customers get very effective and noticeable results
19 with no negative side effects whatsoever. This formula delivers both immediate
20 and long-term results.”*

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27

28

1 22. The following picture of a box of “Orexis®” has been widely
2 disseminated by Defendants:



13 23. Defendants Orexis, LLC, Urban Nutrition, LLC, Atlantic Media Group,
14 LLC, and Surwilo have falsely advertised on their affiliated website,
15 MensBlogTalk.com, that Orexis® contains “a patented manufacturing technique that
16 extracts only the most pure and potent components of its high-quality organic
17 ingredients.”

18 24. In reality, neither Orexis® nor any formula in it is patented. Counsel for
19 Plaintiff has exhaustively researched public records, including the records of the United
20 States Patent & Trademark office (found at www.uspto.gov) that are presumed to be
21 conclusively accurate, and have confirmed that neither Orexis® nor any formula in it is
22 patented.

23 **2. Longevity**

24 25. Defendants Longevity, LLC, Urban Nutrition, LLC, Atlantic Media Group,
25 LLC, and Surwilo manufacture, advertise, license, and sell a male enhancement product
26 called “Longevity,” through their affiliated website, MensBlogTalk.com.
27 Among other things, they have made the following claims for the product:

1 “*Longevity uses a real HGHR patented Pituitary Gland extract. This is the most*
 2 *powerful substance you can feed your pituitary gland to stimulate a drastic*
 3 *increase in your production of Growth Hormone.*”

4 26. Defendants Longevity, LLC, Urban Nutrition, LLC, Atlantic Media Group,
 5 LLC, and Surwilo also have used the following language to describe the purported
 6 results they promise users will achieve:

7 “*With higher levels of Growth Hormone, you will see an apparent boost to your*
 8 *testosterone levels, libido performance and an increase in lean muscle.*”

9 27. The following picture of a bottle of “Longevity,” is one that has been
 10 widely disseminated by Defendants:



11 28. Defendants Longevity, LLC, Urban Nutrition, LLC, Atlantic Media Group,
 12 LLC, and Surwilo have falsely advertised on their affiliated website,
 13 MensBlogTalk.com, that Longevity contains “a real HGHR patented Pituitary Gland
 14 extract.” Defendants Longevity, LLC, Urban Nutrition, LLC, Atlantic Media Group,
 15 LLC, and Surwilo also have falsely advertised on their affiliated website,
 16 MensBlogTalk.com, that Longevity contains “a patented substance, 2-AEP®, which is
 17 clinically proven to rejuvenate and repair the entire body.”

18 29. In reality, neither Longevity nor any formula in it is patented. Counsel for
 19 Plaintiff has exhaustively researched public records, including the records of the United
 20 States Patent & Trademark office (found at www.uspto.gov) that are presumed to be
 21 22 23 24 25 26 27 28

1 conclusively accurate, and have confirmed that neither Longevity nor any formula in it
2 is patented.

3 **D. Defendants' Violation of the Patent Act Was Intentional.**

4 30. Defendants knew, at the time they advertised and promoted Orexis® and
5 Longevity as described above that neither Orexis® nor Longevity is patented, nor
6 contains any patented formulas. Despite that knowledge, Defendants nevertheless
7 continuously and repeatedly advertised and promoted both products as being patented.
8 In this connection, and again despite their knowledge that neither Orexis® nor
9 Longevity is patented, Defendants advertised and promoted Orexis® and Longevity as
10 patented products through their affiliated website, MensBlogTalk.com.

11 31. As a result of the false claims concerning Orexis® and Longevity
12 described above, Defendants have enjoyed enormous sales of Orexis® and Longevity.

13 32. Based on these facts, Defendants have engaged in this false marking
14 scheme to deceive the public and to stifle legitimate competition, and to gain a
15 competitive advantage in the market. Defendants' continuous marketing and promotion
16 of Orexis® and Longevity as patented despite their knowledge that they were not
17 demonstrates that Defendants' false marking was intentional and committed with the
18 specific design to profit from misleading consumers. Under these circumstances, this
19 case is "exceptional" for purposes of 35 U.S.C. § 285 because Defendants had no
20 reasonable basis upon which genuinely to believe Orexis® and Longevity are patented.

22 **V. CAUSES OF ACTION.**

23 **FIRST CAUSE OF ACTION: FALSE PATENT MARKING**

24 **(Against Defendants Orexis, LLC, Urban Nutrition, LLC,
25 Atlantic Media Group, LLC, Surwilo, and Does 1-5, inclusive)**

26 33. Plaintiff re-alleges the preceding paragraphs and incorporates them herein
27 by reference.

1 34. Defendants know that they can charge a premium for products that the
2 public perceives to be unique and protected by a patent.

3 35. Defendants have marked, or caused or allowed to be advertised, Orexis®
4 as being patented when, in reality, it is not.

5 36. Defendants have violated 35 U.S.C. § 292(a), which provides in relevant
6 part:

7 *Whoever without the consent of the patentee, marks upon, or affixes to, or uses in
8 advertising in connection with anything made, used, offered for sale, or sold by
9 such person within the United States, or imported by the person into the United
10 States, the name or any imitation of the name of the patentee, the patent number,
11 or the words "patent," "patentee," or the like, with the intent of counterfeiting or
12 imitating the mark of the patentee, or of deceiving the public and inducing them
13 to believe that the thing was made, offered for sale, sold, or imported into the
14 United States by or with the consent of the patentee; or Whoever marks upon, or
15 affixes to, or uses in advertising in connection with any unpatented article the
16 word "patent" or any word or number importing the same is patented, for the
17 purpose of deceiving the public; or Whoever marks upon, or affixes to, or uses in
18 advertising in connection with any article the words "patent applied for," "patent
19 pending," or any word importing that an application for patent has been made,
20 when no application for patent has been made, or if made, is not pending, for the
21 purpose of deceiving the public - Shall be fined not more than \$500 for every
22 such offense.*

24 37. Each false marking on Orexis® is likely to discourage or deter persons and
25 companies from commercializing competing products.

38. Defendants' false marking of Orexis® has wrongfully stifled competition with respect to similar and potentially competing products, thereby causing harm to plaintiff, the United States, and the public.

39. Defendants have wrongfully and illegally advertised a patent monopoly that they do not possess and, as a result, have benefitted commercially and financially by maintaining false statements of patent rights.

40. Defendants are therefore liable to plaintiff and to the United States under 35 U.S.C. §292 (b). The public interest requires that Defendants be enjoined from further acts of false marking, pay civil penalties, and make restitution for their ill-gotten gains.

SECOND CAUSE OF ACTION: FALSE PATENT MARKING

(Against Defendants Longevity, LLC, Urban Nutrition, LLC, Atlantic Media Group, LLC, Surwilo, and Does 6-10, inclusive)

41. Plaintiff re-alleges the preceding paragraphs and incorporates them herein by reference.

42. Defendants know that they can charge a premium for products that the public perceives to be unique and protected by a patent.

43. Defendants have marked, or caused or allowed to be advertised, Longevity as being patented when, in reality, it is not.

44. Defendants have violated 35 U.S.C. § 292(a), which provides in relevant part:

Whoever without the consent of the patentee, marks upon, or affixes to, or uses in advertising in connection with anything made, used, offered for sale, or sold by such person within the United States, or imported by the person into the United States, the name or any imitation of the name of the patentee, the patent number, or the words "patent," "patentee," or the like, with the intent of counterfeiting or imitating the mark of the patentee, or of deceiving the public and inducing them

to believe that the thing was made, offered for sale, sold, or imported into the United States by or with the consent of the patentee; or Whoever marks upon, or affixes to, or uses in advertising in connection with any unpatented article the word "patent" or any word or number importing the same is patented, for the purpose of deceiving the public; or Whoever marks upon, or affixes to, or uses in advertising in connection with any article the words "patent applied for," "patent pending," or any word importing that an application for patent has been made, when no application for patent has been made, or if made, is not pending, for the purpose of deceiving the public - Shall be fined not more than \$500 for every such offense.

45. Each false marking on Longevity is likely to discourage or deter persons and companies from commercializing competing products.

46. Defendants' false marking of Longevity has wrongfully stifled competition with respect to similar and potentially competing products, thereby causing harm to plaintiff, the United States, and the public.

47. Defendants have wrongfully and illegally advertised a patent monopoly that they do not possess and, as a result, have benefited commercially and financially by maintaining false statements of patent rights.

48. Defendants are therefore liable to plaintiff and to the United States under 35 U.S.C. §292 (b). The public interest requires that Defendants be enjoined from further acts of false marking, pay civil penalties, and make restitution for their ill-gotten gains.

VI. PRAYER FOR RELIEF

Plaintiff seeks entry of judgment against defendant as follows:

1. A judicial determination that Defendants have violated 35 U.S.C. §292 by falsely advertising and marking Orexis® and Longevity as “patented” for the purpose of deceiving the public;

2. An order fining Defendants for false marking in an amount that is reasonable in light of the total revenue and gross profit derived from the sale of falsely marked Orexis® and Longevity and the degree of intent to falsely mark which is proven, with half of the fine paid to the United States Government and the other half to plaintiff;

3. An order preliminarily and permanently enjoining Defendants and their affiliates from committing new acts of false patent marking and to cease all existing acts of false patent marking;

4. An award of attorneys' fees and costs incurred in bringing and maintaining this action, in part because it is "exceptional" for purposes of the Patent Act; and

5. Any such other relief to which plaintiff, the United States, or the general public may be entitled.

Dated: December 16, 2010

NEWPORT TRIAL GROUP
A Professional Corporation
Scott J. Ferrell

By: Scott J. Ferrell

Attorneys for Plaintiff

1
DEMAND FOR JURY TRIAL

2 Pursuant to Federal Rule of Civil Procedure Section 38(b), Plaintiff demands a
3 trial by jury on all issues so triable.

4 Dated: December 16, 2010

5 NEWPORT TRIAL GROUP
A Professional Corporation
6 Scott J. Ferrell

7 By: 
8 Scott J. Ferrell

9 Attorneys for Plaintiff

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Josephine Tucker and the assigned discovery Magistrate Judge is Marc Goldman.

The case number on all documents filed with the Court should read as follows:

SACV10- 1925 JST (MLGx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====
NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/>) UNITED STATES OF AMERICA, Ex. Rel., ZACHARY HALLSTROM		DEFENDANTS OREXIS, LLC; a limited liability company; LONGEVITY LLC, a limited liability company; URBAN NUTRITION, LLC, a limited liability company; ATLANTIC COAST MEDIA GROUP, LLC, a limited liability company, et al.																													
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) Scott J. Ferrell (SBN 202091) Newport Trial Group, 610 Newport Center Drive, Suite 700 Newport Beach, CA 92660 (949) 706-6464		Attorneys (If Known)																													
II. BASIS OF JURISDICTION (Place an X in one box only.)		III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.)																													
<input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)		Citizen of This State PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 Incorporated or Principal Place of Business in this State PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4																													
<input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)		Citizen of Another State PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2 Incorporated and Principal Place of Business in Another State PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5																													
		Citizen or Subject of a Foreign Country PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3 Foreign Nation PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6																													
IV. ORIGIN (Place an X in one box only.)																															
<input checked="" type="checkbox"/> 1 Original <input type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify): <input type="checkbox"/> 6 Multi-District Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge																															
V. REQUESTED IN COMPLAINT: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No (Check 'Yes' only if demanded in complaint.) CLASS ACTION under F.R.C.P. 23: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No MONEY DEMANDED IN COMPLAINT: \$ _____																															
VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.) 35 U.S.C. Section 292 and 287(a) regarding false patent marking.																															
VII. NATURE OF SUIT (Place an X in one box only.) <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; vertical-align: top;"> OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes </td> <td style="width: 25%; vertical-align: top;"> CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise </td> <td style="width: 25%; vertical-align: top;"> TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability </td> <td style="width: 25%; vertical-align: top;"> TORTS PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability </td> </tr> <tr> <td colspan="2"> BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 </td> <td colspan="2"> PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition </td> </tr> <tr> <td colspan="2"> CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment </td> <td colspan="2"> FORFEITURE <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 </td> </tr> <tr> <td colspan="2"> CRIMINAL <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights </td> <td colspan="2"> CRIMINAL <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other </td> </tr> <tr> <td colspan="2"> REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property </td> <td colspan="2"> PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark </td> </tr> <tr> <td colspan="2"> GOVERNMENT <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) </td> <td colspan="2"> GOVERNMENT <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) </td> </tr> <tr> <td colspan="2"> FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 </td> <td colspan="2"></td> </tr> </table>				OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	TORTS PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157		PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment		FORFEITURE <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		CRIMINAL <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights		CRIMINAL <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other		REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property		PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark		GOVERNMENT <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g))		GOVERNMENT <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))		FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609			
OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	TORTS PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability																												
BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157		PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition																													
CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment		FORFEITURE <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881																													
CRIMINAL <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights		CRIMINAL <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other																													
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property		PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark																													
GOVERNMENT <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g))		GOVERNMENT <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))																													
FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609																															

SACV10-1925 JST (MLGX)

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
 If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
 If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District.*	California County outside of this District; State, if other than California; or Foreign Country
Orange	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District.*	California County outside of this District; State, if other than California; or Foreign Country
Unknown	Hoboken, New Jersey

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District.*	California County outside of this District; State, if other than California; or Foreign Country
Orange	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Date December 16, 2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))